S.B. CIVIL MISC. APPEAL NO. 1079/2006
[Sameer Mal & Anr. Vs. Sita Ram & Ors.]

DATED : 08.08.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajendra Charan for the appellants.

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By way of this appeal against the award dated 28.06.2005 made by the Motor Accidents Claims Tribunal, Gulabpura in Claim Case No.255/2002 the claimant-appellants seek enhancement over the compensation amount of Rs.2,45,000/- awarded by the Tribunal on account of accidental death of their son Satyanarayan.

On 02.08.2002 at about 2.00 p.m., the deceased Satyanarayan riding his motorcycle with his wife Ramdhani was hit by a dumper bearing registration No. RJ 06 G 0307 near village Dhagariya, Police Station Pander; both of them sustained injuries; Ramdhani died on the spot whereas Satyanarain expired while on way to hospital.

The present appellants claimed compensation on account of accidental death of their son Satyanaraiyan; and the appellant No. 1 Samir Mal while joining the mother of Ramdhani, claimed compensation on account of her accidental death. In relation to Satyanarayan it was alleged that he was engaged in agriculture, leather work and driving

and was earning about Rs. 4000/- per month.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid dumper bearing registration No. RJ 06 G 0307 and held the respondents liable for compensation. While taking up quantification of compensation in the present claim case No. 255/2002, the Tribunal found that no proper evidence was adduced in relation to the income of the deceased Satyanarayan nor about his working as driver and in the overall circumstances estimated his income at Rs. 2000/- per month and deducting one-third on his personal expenditure took the loss of contribution at Rs.16,000/- per annum and looking to the age of the claimants (respectively at 46 and 40 years) and noticing the fact that the wife of the deceased also perished in the same accident, applied a multiplier of 15 and thereby calculated pecuniary loss at Rs.2,40,000/-. The Tribunal also awarded Rs.2,000/- for funeral expenses and Rs.3,000/- as non-pecuniary compensation towards loss of services. The Tribunal has, therefore, made an award in the sum of Rs.2,45,000/- in favour of the claimants and allowed them interest at the rate of 6% per annum from the date of filing of the claim application. It may be pointed out that in the claim case pertaining to demise of Ramdhani, an award in the sum of Rs. 1,54,000/- has been made only in favour of her mother.

Learned counsel appearing for the appellants has contended that looking to the age and income of the deceased and future prospects, the amount awarded by the Tribunal remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has erred in awarding interest only at the rate of 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that there is no scope for enhancement in the amount of compensation awarded by the Tribunal and, therefore, this appeal deserves to be dismissed.

When no definite proof of income of the deceased has been adduced and the deceased has not been shown in any settled employment the Tribunal cannot be said to be in error in taking a reasonable figure of monthly income at Rs. 2,000/-. Moreover, in the present case, the Tribunal has taken two-third of the income of the deceased towards loss of contribution and adopted multiplicand at Rs. 16,000/- per annum that remains definitely on higher side in the context of the parents of the deceased. While making estimate on loss of contribution, the fact that deceased was already a married person and thus was likely to contribute to his own family of wife and children could not have been ignored; and, therefore, entire of two-third of the estimated income of the deceased could not have been taken as loss of contribution for the parents. The Tribunal has ap-

plied a multiplier of 15 that too cannot be said to be on lower side in view of the age of the claimants. Of course, non-pecuniary loss has been awarded wee bit on lower side but in the ultimate analysis, with the higher figure on loss of contribution the award cannot be said to be falling short of just compensation. The Tribunal has of course awarded interest only at the rate of 6% per annum but in view of the reasonable award made by the Tribunal, such choice of rate of interest cannot be said to be unjustified.

Having regard to the overall facts and circumstances of the case, this Court is clearly of the opinion that the impugned award cannot be said to be too low or grossly inadequate so as to warrant any interference in appeal.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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